IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5724 OF 1997

1. M/s. Kantilal Rajmal Tathed)
   r/o, Lasalgaon, Tal.Niphad)
   Dist. Nasik.

2. M/s. R.G.Gunjal)
3. M/s. Paras Traders) ..Petitioners.

V/s.

1. The Tahasildar, Niphad)
   Dist. Nasik)
)
2. Smt. Vinubai Kashinath Kahane)
   r/o. Lasalgaon, Tal. Niphad.)
)
3. The Assistant (Supply))
   Commissioner, Nashik)
)
4. The State of Maharashtra) .. Respondents.

Mr. P. S. Dani for the Petitioners.
Mr. C.R. Sonawane, AGP for Respondent -State.
Mr. P.A.Pol for Respondent No.2.

CORAM : A.P. SHAH & S.U. KAMDAR, JJ.
DATED : 24TH SEPTEMBER, 2004

JUDGMENT :- (Per Kamdar, J)

. By the present Petition, the Petitioners are seeking writ of certiorari to set aside the order dated 21.12.1994 passed in Appeal No. 88/1994, and the order dated 02.06.1995 passed in a Revision Application by the State Government. Some of the brief facts are as under :

2. Pursuant to the advertisement issued in 1993, various parties applied for allotment or a grant for a quota of distribution of kerosene : Respondent No.2 was allotted 6000/- liters of kerosene quota, which he could distribute in retail to the public. Some time in or about June, 1994, an appeal was preferred by the petitioners against the said grant of kerosene quota to Respondent No.2 because with the allotment of 6000 liters quota to the second respondent, the quota available to the petitioners was reduced. On 21st December, 1994, the Appellate Court passed an order, dismissing the said Appeal of the Petitioners, as not maintainable. Against the said order of the appellate authority, a revision application was filed before the Honourable Minister and the Minister allowed the said Revision and set aside the order passed by the Appellate Court.

3. Thereafter, the Respondent filed a writ petition before this Court, being writ petition No. 3254/1995. By an order and judgment dated 25th September, 1995, the writ petition was allowed on the ground that the second respondent was not heard before passing the order by the Minister. The said revision

was thereafter re-heard by the Hon'ble Minister, who held that the said revision application, is not maintainable since the Appeal itself was not maintainable before the appellate authority.

4. Being aggrieved by the said order dated 21.5.1996 passed by the Minister, the present writ petition is filed by the petitioners.

5. The learned counsel for the petitioners has contended before us that the order passed by the said authorities, is erroneous and incorrect. He has contended that the advertisement was only for a quota of 800/- litres of kerosene, whereas the respondent No.2 has been allotted quota of 6000/- ltrs. of kerosene.

6. On the other hand, the learned counsel for the Respondent has drawn our attention to the judgment of the Honourable Supreme Court in the case of **Amanulla Khan Kudeatalla Khan Pathan vs. State of** G**ujarat & Ors. (1999) 5 SCC -613** and our judgment in writ petition No. 4427 of 2004. In the light of the aforesaid two judgements, we find that the order

passed by the appellate authority, holding that the appeal is not maintainable and the second order passed by the revisional authority, holding that since the appeal is not maintainable, therefore, the revision cannot lie before the revisional authority, is correct and cannot be said to be erroneous or illegal. Accordingly, we find no merit in the present petition.

7. In the result, the petition is dismissed with no order as to costs.

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